

## **Section 5 - Access to Information Procedure Rules**

### **1. SCOPE**

These rules apply to all meetings of the Council, the Executive and its Committees.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or provided by the law.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in this Section 5.

### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the Town Hall at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

5.2 Where reports are prepared after the summons has been sent out, the Solicitor to the Council shall make each such report available to the public as soon as the report is completed and sent to Members.

### **6. SUPPLY OF COPIES**

The Council will supply copies to any person on payment of a charge for postage and any other costs:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Members in connection with an item.

### **7. ACCESS TO MINUTES AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the Minutes of the meeting or records of decisions taken, for all meetings referred to in paragraph 1 above, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- (b) a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

8.1.1 The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his or her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report.

8.1.2 The documents referred to in (a) and (b) above do not include published works or those which disclose exempt or confidential information and in respect of Executive reports, the advice of a political advisor.

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information - requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **10.2 Exempt information – discretion to exclude public**

10.2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

10.2.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article 6.

**10.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

**10.4 Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to the qualifications as outlined in 10.2 above):

<b>CATEGORY</b>	
<b>1.</b>	<b>Information relating to any individual</b>
<b>2.</b>	<b>Information which is likely to reveal the identity of an individual</b>
<b>3.</b>	<b>Information relating to the financial or Business affairs of any particular person (including the authority holding that information)</b>
<b>4.</b>	<b>Information relating to any consultations; or Negotiations, or contemplated consultations; or Negotiations, in connection with any labour relations matter arising between the authority; or a Minister of the Crown and employees of; or office holders under the authority</b>
<b>5.</b>	<b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</b>
<b>6.</b>	<b>Information which reveals that the authority proposes – (a) to give under any enactment a notice under of by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.</b>
<b>7.</b>	<b>Information relating to any action taken or to be taken in connection with the prevention or investigation or prosecution of crime.</b>

<b>QUALIFICATIONS</b>
<p><b>Information relating to the financial or business affairs of any particular person is not exempt if it is required to be registered under: the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993.</b></p>
<p><b>Information relating to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992 is not exempt.</b></p>
<p><b>Information in one of the seven categories of exempt information which is not prevented from being exempt by either of the two points described above is exempt if the public interest in maintaining the exemption outweighs the public interest in disclosing it.</b></p>

### 10.5 Meaning of exempt information relating to the Scrutiny Commission for Health Issues

In accordance with the Health and Social Care Act 2001, exempt information relating to the overview and scrutiny of health services falls within the following 14 categories (subject to any condition):

<b>Category</b>	<b>Condition</b>
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a relevant body.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of a relevant body.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
3. Information relating to any particular applicant for, or recipient or former recipient of any service provided by a relevant body	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 5 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons

*Part 4, Section 5 – Access to Information*

<p>6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services</p>	<p>Information within paragraph 6 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it)</p>
<p>7. The identity of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services</p>	<p>For the purposes of this paragraph “tender” includes a Contract Services written bid</p>
<p>8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between a relevant body or a Minister of the Crown and employees of, or officer-holders under, a relevant body</p>	<p>Information within paragraph 8 is only exempt if and for so long as its disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute</p>
<p>9. Any Instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings), and any advice received, information obtained or action to be taken in connection with: (a) any legal proceedings by or against a relevant body; or (b) the determination of any matter affecting a relevant body; (whether, in either case, proceedings have been commenced or are in contemplation).</p>	
<p>10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Health Authority.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>11. Information relating to a particular person who is or was providing services, or has made a request to a Health Authority to become a person providing services, under arrangements under section 28C of the 1977 Act.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>12. Information relating to a particular person who is or was formerly performing personal medical services or personal dental services in accordance with arrangements under section 28C of the 1977 Act.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>13. Information relating to any particular employee, former employee, or applicant to become an employee, of a person referred to in paragraph 10, 11 or 12.</p>	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated</p>
<p>14. Information relating to the physical or mental health of a particular individual.</p>	

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

- 11.1 If the Monitoring Officer feels that a report or document contains confidential or exempt information he or she must mark the report or document 'Not for Publication - paragraph ... of Schedule 12A to the Local Government Act 1972'.
- 11.2 If a report or document is marked 'not for publication' the contents will not be quoted or revealed before or after the meeting, unless before the report is discussed, the meeting decides at the beginning that the matter should be dealt with in public.
- 11.3 Any Member who considers that parts of the report or document do not contain confidential or exempt information which can be made public, can ask the Monitoring Officer to issue an amended report with the confidential and exempt information deleted. The Monitoring Officer will decide whether the Council can do this.
- 11.4 The author of a report which contains exempt information must explain why the information is confidential or exempt. If it is possible to remove exempt information from a report and put it in an annex to the report, the annex will be marked with the appropriate words set out in paragraph 11.1 above. If the meeting wants to debate the information contained in the exempt annex, the appropriate resolution to exclude the public can be moved.
- 11.5 If a report contains exempt or confidential information as defined above the Chief Executive may in consultation, with the Leader/Chairman of the Committee and representatives of the other groups on the Committee, dispatch the report at an appropriate time. If this happens, and the report is not given with the agenda paper for the meeting, the Chief Executive will explain why, and this will be recorded in the Minutes.
- 11.6 If a report containing exempt information is given out in the meeting, the Leader/chairman of the Committee will allow Members a reasonable period to read and consider the report during the meeting, before it is discussed. No Member will leave the meeting while the information is being considered.

## **12. SCRUTINY COMMITTEE AND SCRUTINY COMMISSION - ACCESS TO DOCUMENTS**

### **12.1 Rights to copies**

Subject to paragraph 12.2 below, Scrutiny Committees and Scrutiny Commissions will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet; or
- (b) any decision taken by an individual member of the Cabinet.

### **12.2 Limit on rights**

The Scrutiny Committees and Scrutiny Commissions will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

### **13. RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS**

#### **13.1 Material relating to previous executive business**

13.1.1 All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted at a statutory private meeting of the executive unless either (a) or (b) below applies.

- (a) it contains exempt or confidential information ; or
- (b) it contains the advice of a political adviser.

#### **13.2 Material relating to key decisions**

13.2.1 All Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision unless paragraph 13.1.1 (a) or (b) above applies.

#### **13.3 Nature of rights**

13.3.1 These rights of a Member are additional to any other legal rights he or she may have.

### **14. MEMBERS' RIGHTS IN RELATION TO OTHER DOCUMENTS**

14.1 A Member can inspect any document the Council holds or controls (except only those available in draft form) which contains material about any business the Council deals with, unless the document reveals exempt or confidential information.

14.2 Where a Member wishes to inspect a document containing exempt or confidential information the Member will say which document they want to inspect and why they want to inspect it. If the Chief Executive or the Solicitor to the Council is satisfied that the Member has a reason to inspect the document in order to carry out their duty as a Member, he or she will allow the Member to inspect it. If the Chief Executive or Solicitor to the Council is not satisfied, he or she will refer the request to the next Council or Committee meeting. The Chief Executive or the Solicitor to the Council will tell the Chairman of the appropriate meeting that a Member has asked to see the document and the Chairman shall decide if the Member has a right to inspect the document.

14.3 Where the Chief Executive or the Solicitor to the Council decides to disclose exempt information which discloses any personal information he or she will generally not have to seek the consent of the individual to disclose that information to a member if:

- The Member represents the ward in which the individual lives
- The Member makes clear that they are representing the individual
- The information is necessary to respond to the individual's complaint

14.4 Where however the information is particularly sensitive the Chief Executive or the Solicitor to the Council may choose to obtain the individual's specific consent.

14.5 If a Member has inspected or received documents which contain exempt or confidential information they will not reveal the information to anyone who is not authorised by the Council or the Chief Executive to receive the information.

**15. ADDITIONAL RIGHTS AND RESPONSIBILITIES IN RELATION TO DOCUMENTS**

- 15.1 A Member will not knowingly inspect and will not call for a copy of any document relating to a matter which they are professionally interested in, or which they have any financial interest in within the meaning of the Council's Code of Conduct.
- 15.2 The Chief Executive or the Solicitor to the Council may refuse to allow a Member to inspect any document which is, or in the event of legal proceedings would be, confidential between solicitor and client.
- 15.3 If a document which a Committee or sub-Committee has considered contains confidential or exempt information, a Member can only inspect it if they can prove to the Chief Executive or the Solicitor to the Council that they legitimately need to know the contents of the document so they can carry out their duties as a Member.
- 15.4 If a Member has inspected or received documents which contain exempt or confidential information they will not reveal the information to anyone who is not authorised by the Council or the Chief Executive to receive the information.
- 15.5 If a meeting finds out that a Member has revealed confidential or exempt information which it is responsible for, it will consider the matter and, if it feels it is necessary, it will recommend that the Council remove the Member from that body, or take other appropriate action. Such action is without prejudice to the Council's Code of Conduct for Councillors contained in Part 5 of the Constitution.
- 15.6 A Member must apply to the Chief Executive or the Solicitor to the Council if they want to inspect any document we hold which they do not have a legal right to inspect in order to carry out their duty as a Member. The Member will say which document they want to inspect and why they want to inspect it. If the Chief Executive or the Solicitor to the Council is satisfied that the Member has a reason to inspect the document in order to carry out their duty as a Member, he or she will allow the Member to inspect it. If the Chief Executive or Solicitor to the Council is not satisfied, he or she will refer the request to the next Council meeting. The Chief Executive or the Solicitor to the Council will tell the Chairman of the appropriate meeting that a Member has asked to see the document.